

Brianne K. Nadeau

Councilmember Brianne K. Nadeau

AN AMENDMENT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Date: December 15, 2022

Offered by: Councilmember Brianne K. Nadeau

To: Bill 24-0120, the “Emergency Rental Assistance Reform and Career Mobility Action Plan Program Establishment Amendment Act of 2022”

Version: ☐ Introduced
☐ Committee Report
☐ Committee Print
☐ First Reading
☒ Engrossed
☐ Enrolled
☐ Amendment in Nature of Substitute

Amendment

1. Section 203(a)(4) on page 9, line 171 is amended to read as follows:

“(4) Meet any other eligibility criteria established by the Mayor pursuant to the Mayor’s rulemaking authority under Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).”.

2. Section 204 on page 10, line 191 is amended to read as follows:

“Sec. 204. Notice of changes to services or supports.

“(a) The Department shall provide written notice by postal mail and, where possible, by electronic mail, to a program participant before terminating, reducing, or changing the program participant’s support services. The notice shall advise the program participant of the action the Department plans to take, the reason for the action, the date the action will be taken, and the program participant’s right to request a hearing as provided under section 205.

“(b) A program participant shall be considered to have received notice upon the notice’s postmark date or upon the send date if the notice was also sent via electronic mail, whichever date is earlier.”.

3. Section 205 on page 10, line 197 is amended to read as follows:

“Sec. 205. Hearings.

“(a) A program participant or the program participant’s representative may request a hearing before the Office of Administrative Hearings (“OAH”) to appeal a decision by the Department to:

“(1) Terminate the program participant from the program after less than 5 years of participation; or

“(2) Reduce or change the support services provided to the program participant based on the program participant’s failure to comply with the program requirements or based on income, household composition, or other criteria established by the Department.

“(b) The Mayor shall give the program participant reasonable notice of the time and location of the hearing.

“(c) Upon receipt of a hearing request, the Mayor or the Mayor’s designee shall offer the program participant or program participant’s representative an opportunity for an administrative review by the Department of the decision that is the subject of the hearing request. If eviction is imminent, the Department shall take all reasonable steps to provide an expedited administrative review to maximize resolution of the appeal.

“(d) A program participant shall have 30 calendar days following receipt of notice under section 204 to request a hearing.

“(e) The hearing shall be conducted in accordance with section 26(f)(1)-(3) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-754.41(f)(1)-(3)).

“(f) A program participant that timely requests a hearing shall continue to receive the program services or supports provided to the program participant prior to receiving notice of the adverse action, pending a final decision.

“(g) If OAH enters a decision in favor of a program participant, the Mayor shall authorize corrected payments and services, if applicable, retroactively to the date the incorrect action was taken.

“(h) Materials and documents filed with OAH during the hearing proceedings shall be maintained in compliance with section 16(d) of the Office of Administrative Hearings

Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.13(d)), and any other District or federal law pertaining to the confidentiality of records.”.

Rationale

This amendment aligns the notice of termination and due process afforded participants in the Career Mobility Action Plan program (“Career MAP”) with the notice and process afforded recipients of other housing subsidies under the Homeless Services Reform Act of 2005 (“HSRA”).

The Engrossment treats Career MAP participants, for fair hearings purposes, like nutrition or cash assistance beneficiaries, rather than recipients of housing subsidies. The text explicitly incorporates the fair hearing procedures of the Public Assistance Act of 1982, not the procedures affirmed in the 2017 rewrite of the HSRA. That means that, although they forfeit their Family Re-Housing Stabilization Program (“FRSP”) benefits to participate in Career MAP, and although Career MAP provides a housing subsidy, participants are afforded a set of procedures designed for people receiving only the equivalent of the wraparound services offered by Career MAP, not for people reliant on a Department of Human Services initiative for safe and stable housing.

This amendment ensures that people who leave FRSP for Career MAP have the same protections as families who continue to benefit from FRSP, including the confidentiality protections of the HSRA.

The amendment also clarifies that any program eligibility criteria not explicitly included in the text of the statute must be promulgated by the Mayor pursuant to the Mayor’s rulemaking authority under the District of Columbia Administrative Procedure Act and that notice of termination must be conveyed by both mail and e-mail to ensure that participants receive actual notice.